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THE RECENT CAMPAIGN AGAINST LABOR ORGANIZATIONS IN GERMANY.

It is a fact which cannot have escaped the observation of foreigners that there is today in Germany very little enthusiasm for a vigorous and thorough social reform; that the laborers' struggle for emancipation encounters today in Germany more opposition than formerly. At the beginning of this decade we Germans enjoyed a season in which it seemed as though all the cultured people of the nation, the Kaiser at their head, were about to offer their aid to elevate the laboring classes. In the year 1889 the Kaiser gave a personal audience to a deputation of striking miners, and he warned the masters that they ought to put their hands in their pockets. Six months later he sent the celebrated communication to his minister of commerce, with the demand upon the state to satisfy the just complaints and wishes of the laboring classes. How far the Kaiser was at that time inclined to meet the wishes of the laborers may be seen from the two following utterances: (1) "It is one of the tasks of the sovereign power to regulate the time, the duration, and the character of labor in such a way that maintenance of the health, the demands of morality, and the economic needs of the laborers and their title to legal equality will be provided for." In this way account was taken of the wishes of the laborers for introduction of a law for a maximum labor day, and, more than

all, promise was made that there should be no plans in the future for special legislation against laborers.¹ (2) "To guard the peace between employers and employés, legal provisions should be adopted with reference to the forms in which the laborers should be authorized to take part in regulation of affairs of common concern, through representatives who enjoy their confidence, and also with reference to their consideration of their interest in transactions with the employers and with the organs of my government."

Herewith is the right promised to the laborers of coöperation with the employers in closing labor contracts, and particularly through the use of representatives "who enjoy their confidence;" that is, who have been chosen by the laborers themselves. The right of the labor organizations to take part in settling the terms of the labor contract is here unequivocally expressed. Accordingly the Kaiser at that time placed himself on the side of the laborer with reference to the two chief demands, namely, for protective laws and for freedom of combination.

Following the above-mentioned imperial rescript to the minister of commerce, there was a circular letter of the ecclesiastical authorities of Prussia to the clergy. The church council (*Oberkirchenrat*) of Berlin called upon its pastors to address themselves to the study of the labor question, to attend meetings of the people, and to oppose themselves to "the godless and faithless Social Democracy;" and, furthermore, to call into existence associations of laborers on an evangelical basis. In the same year (1890) the Evangelical Social Congress was established by theologians and professors of national economy. This organization undertook the task "of making fruitful the forces of faith and love dormant in evangelical Christian society, to the end that social evils might be remedied." In a word, there prevailed in the widest circles the warmest enthusiasm for helping the laborers, for supporting them in their struggles against suffering and oppression, for satisfying their demands for worthy life and just

¹On October 1, 1890, the socialist law expired, which during the twelve years previous had placed the Social Democracy, and therewith the labor organizations, under special legislation.

treatment, and for rescue of them by these means from the arms of the Social Democracy. At that time the German Social Democracy was certainly very unfriendly to religion, and was also very cool in its feelings of patriotism.

But this spring of a fine and large social reform was not long to endure. The law for protection of labor which the government proposed in the Reichstag in 1890-91 was far from meeting the expectations which the imperial decree had properly raised, and the friends of social reform were unable to amend the law so as to incorporate more inclusive terms. Nevertheless, this law is the sole actual outcome of that period of enthusiasm and agitation. With the year 1892 the reaction in the temper of the governing classes began to be evident. From the Kaiser himself no word of encouragement and stimulus in the field of social politics was any longer heard. On the contrary, the great capitalists acquired more and more influence with him. He made their thoughts and views more and more his own. His addresses in public were more and more in their favor. The church also withdrew with the Kaiser from the social undertakings upon which it had entered. The decree of the church authorities of the year 1890 was recalled five years later. Clergymen who were socially disposed, who took an interest in the labor movement, were punished or disciplined, or at least constantly watched and nagged. The Evangelical Social Congress was more and more avoided by church officials, and many of the clergy. Indeed, in 1896 permission was refused in Leipzig for the congress to use a church for a commemorative religious service. In a word, the number of those who stood fast in the earlier temper and still wished to help the laboring class grew continually smaller, and their influence became weaker. They were more and more pushed into an attitude of defense; they could not obtain new laws for the laborers; they were obliged rather to bend all their energy to defense of the old laws, dating from earlier and better times, against new attacks. The general right of suffrage for the Reichstag—this chief weapon in the political struggle of the laborers—presently became more and more an object of dislike and of more or less open attack in the

ranks of the great middle-class parties (the Conservatives and a portion of the National Liberals). The law governing association and assemblage, which already affronts all liberal demands—how we envy the English and the Americans when we hear of the personal liberties that obtain in their states!—this law was to be made still more restrictive in the several states of the empire, and the program was actually carried out in Saxony, although not in Prussia. In this series of assaults upon the labor movement, which were undertaken partly by the governments and partly by the above-named great parties, belongs now also the proposed law which at the present moment almost alone occupies the attention of social politics in Germany; namely, the law for the protection of the conditions of factory labor, as it is officially termed by the imperial government; the “House of Correction Law” (*Zuchthausgesetz*), as it is called with propriety by the laborers who are most affected by it. I must speak somewhat at length of this law, its antecedents, and its significance, because in this connection the present status and future prospects of social reform in Germany are most evident.

Among the great employers it had been for some time perceived as an unwelcome fact that during the last decade there had been a very considerable development of the labor organizations in Germany. Our labor movement, to be sure, lags behind that in America and in England, but compared with the condition between 1880 and 1884 it has already become a decided power. It is easy to understand that corresponding with this growth there was on the side of the employers increasing impatience and opposition toward the organizations. In many trades there was a considerable degree of harmony, to be sure, between the employers and the laborers. In the printing trades, for example, a three-years’ tariff was accepted by the great printers’ organizations, and this agreement covered the rates of wages and the hours of labor for all Germany. In other trades there were movements toward similar tariffs arranged in common between employers and labor organizations. But the great masses of the employers stand today still upon the old position, namely, that they will not concede to the labor organizations

any right to coöperate in determining the conditions of labor. They want "to remain master of the house," as the ever-returning watchword has it. In every demand for wages they see only "wild greed," "rebellion," or "lawlessness." These classes of employers control, through their organizations, the larger part of the industry. The most reputable and financially responsible newspapers are their organs. Almost the whole body of functionaries, almost all the police officials, and almost every judge is on their side, because all these come from the same social stratum and are recruited from the same sources. Moreover (and this is of capital importance), they have won the ear of the monarch for their conceptions. The chief spokesman of this capitalistic tendency, the iron magnate Freiherr von Stumm-Halberg (formerly simply Herr Stumm!), is among the most intimate friends of the Kaiser, or at least he was until recently. The great "cannon king" Krupp, of Essen, is also a person who is in favor at the court. Besides these many others might be mentioned. It is to be added that the leading representatives of the old nobility and of the great landed proprietors in this instance naturally go entirely with the great industrial organizers. To a certain extent they have in their blood the conception that it is the destiny of the lower classes of the people to obey (*Order zu parieren*, as the traditional German phrase has it!), and that it is, therefore, their duty to accommodate themselves contentedly to their appointed lot. These conservative feudal circles constitute the daily environment of the monarch. Wilhelm II. would be more than a man if he were not gradually influenced by the tone of his surroundings.

To all this must be added another influence which incited him to abandon the reformatory ideals of his early years. He had believed that if he partially met the demands of the laborers they would throng about his throne with thanks and enthusiasm; they would cease to follow the international and democratic aims of the Social Democracy, and would be converted to patriotism and fidelity to the crown. In this hope he was deeply disappointed, or rather in his sanguine enthusiasm he had believed that success would instantly follow his endeavors. That, however,

was an impossibility. The Social Democracy had struck too firm roots in the laboring classes, and the unpatriotic international and anti-monarchical thoughts were by the twelve-years special law to which the Social Democracy was subject from 1878 to 1890 too deeply provoked by the government itself for all to be suddenly changed at a single stroke. It would, to be sure, have been within the power of imperial statesmanship to win the laborers for a national and monarchical policy, if for a decade the policy of the spring of 1890 had been continued; but inasmuch as the Kaiser wanted to pick the fruits at the same moment in which he planted the tree, bitter disappointment was the necessary result.

In this situation the above-indicated influences of the squires and the capitalists must have fallen upon fruitful soil. The Kaiser, who thought he had been repulsed by the laborers, was obliged to take refuge with these other strata, because he cannot govern at all without a party upon which he can depend. Accordingly he adopted more and more the views of the capitalists. He also began to see in every struggle for wages merely an exhibition of the republican spirit, or of discontent and illegality. Moreover, to him every labor organization was only an association of Social Democratic agitators and whips (*Hetzer*), who were trying to bring about the overthrow of the state and of society. After his lively fashion, he gave more and more frequent expression to this feeling in speeches, table-talks, and other utterances. At the same time the Social Democracy did its utmost, through its unwise and improper attitude, especially at the twenty-fifth anniversary of the establishment of the empire, to sharpen the existing opposition.

Accordingly, after several other attempts to head off the political or industrial labor movement, the most recent proposal was made, namely, the so-called "House of Correction Law." This unique name is sufficiently explained by the history of the proposal.

In the summer of 1897 the Kaiser visited the famous institutions of the well-known Pastor von Bodelschwingh near Bielefeld. In this neighborhood an uprising of the masons had

occurred just before. Bodelschwingh had been seriously affected by it. A hall which he needed for the reception of the Kaiser could be made ready only with great difficulty and with considerable use of "voluntaries."¹ Allusion was made to the subject during the visit of the monarch, and the latter got the idea that the members of the labor organizations were merely the restless, lazy, dissatisfied sort of people, while the voluntaries, that is, the unorganized laborers who in the case of a strike took the vacated places, were the portion of the labor class that especially deserved encouragement.² This was the occasion of the Kaiser's speech in Bielefeld, in which he called upon the people to support his program, which he indicated as follows: "Protection of the national labor of all productive classes, encouragement of a healthy middle class, ruthless suppression of all revolution, and the severest punishment to anyone who has the audacity to hinder a fellow-man in the performance of free labor whenever the latter wishes to labor." Herewith was the new struggle against the labor organizations opened. In itself the proposition with reference to the "severest punishment for hindering a fellow-man from free labor" could be turned against the employers who by black list or boycott excluded the leaders of the labor movement from all possibility of getting work in the future. But the whole context in which the sentence stands, the interpretation that it received by the official newspapers, and the further steps of the administration, clearly showed that the sentence was directed solely against the laborers who in case of a disturbance would attempt to restrain others from labor, and to add them to the number of strikers. The "good" elements of the laboring class, the "contented," "uncritical," "peaceful" people, who are not to be incited to commotion—the "voluntaries," as they were called from this time—were to be protected against the agitation of the labor organizations. It was supposed

¹ The term *Arbeitswillige* has been rendered as above in this paper. The plain English of it is, of course, "scab."

² During the past summer Pastor von Bodelschwingh sent a letter to the editor of *Hilfe*, Pfarrer Naumann, in which he himself makes the above explanation, at the same time declaring that he is an opponent of the "House of Correction Scheme."

that in taking their part the best means were employed for putting the brakes upon the organizations.

In the following winter the government issued a secret circular to all the administrative officers of the state and the police authorities, with the inquiry whether during the labor difficulties there were not so many excesses and crimes against those laborers who did not care to take part in the movement that it was wise to offer increased protection to the "voluntaries" through additional penalties for "misuse of the right of combination." Through some as yet unexplained source this circular, which was expressly designated "confidential," came into the hands of the editors of the central organ of the Social Democratic party, *Vorwärts*. It was immediately published in this paper, and it was made a subject of discussion in the Reichstag. The government made the following explanation: "If there is any country in which such combinations of laborers are less necessary than elsewhere, that country is Germany. In a country where there is direct universal suffrage the interests of the laborers will always find lively and efficient support through the weight of the fact that they constitute the great mass of the voters. Consequently such a representation of the laborers as exists in the labor organizations is among us nowhere near so necessary as in other countries with other modes of election."

From this it is manifest that the tendency of the circular, and of the law for which it was to prepare the way, was hostile to organizations of laborers in general, although in form it was only directed toward provisions for the "voluntaries." From this time people knew what to expect, although for six months the government gave no further signs of its intentions in the matter.

On September 6, 1898, the Kaiser made another speech at the small town of Oeynhausen, in Westphalia, and like a thunderbolt from a clear sky it illuminated the whole situation. He said: "The protection of German labor, protection of those who want to work, was promised by me during the last year in the town of Bielefeld. The bill is near its completion,

and will be presented to the representatives of the people in the course of this year. It provides that every man, whosoever he may be and whatever his name, who attempts to hinder a German laborer willing to work from prosecuting his labor, or who incites him to strike, shall be committed to the house of correction [*Zuchthaus*]. I promised this punishment at that time, and I hope that the German people will stand by me, in the person of their representatives, in protecting, so far as is possible, our national labor in this manner. Right and law must and shall be protected, and so far as lies in my power I shall see to it that they are maintained."

Like a bursting shell this speech struck into the circles of the laboring people and their allies. Nothing good had been expected; suppression of the organizations had been anticipated; but no one had suspected that men were to be liable to the house of correction for hindering others from labor, or simply for inciting to a strike. The house of correction is the severest penalty after capital punishment that our criminal law knows. Perjurers, counterfeiters, murderers, and other infamous criminals are sentenced to the house of correction; and now this punishment was to be visited upon that laborer who urged his comrades to common resistance, in order to coöperate in improving their own and their children's condition in life. A tremendous excitement took possession of the whole labor population and all the liberal parties. The name "House of Correction Scheme" was given to the proposed law before its contents were fairly known. The National Socialists and the Social Democrats adopted in their conventions energetic resolutions against the law, the former with very tactful allusions to the social expressions of the Kaiser, who was now opposing the labor movement, who, however, eight years before had announced himself with great positiveness as in favor of the labor organizations. The latter party expressed themselves with very plain emphasis of their anti-monarchical tendency in general. The evangelical and Catholic labor organizations joined in these protests. Among the capitalists, on the other hand, this speech was celebrated with enthusiasm, as the word of salvation for which they had long

waited. What is worst of all is that German courts were found which, even before the proposed law was known, proceeded as though it had already become law, and condemned striking laborers who had offended against others to four and eight, and even ten years in the house of correction.

Nevertheless it was nearly nine months before the bill, which on September 6 was said to have been near completion, actually saw the light of day. With commendable tact the government succeeded in keeping it completely secret during all stages of its preparation. It came as a total surprise to the Reichstag on the morning of June 1 of this year. At the same time there appeared, as is customary, a statement of the reasons for the bill, and a few days later a memorial, which pictured excesses connected with strikes, and attempted thereby to gain votes for the law. Three weeks later the first reading of the bill occurred in the Reichstag. In spite of the decisive defeat which the government suffered on this occasion, it held fast to the bill, and the ultimate decision will not be reached until November next (1899), when the Reichstag reassembles.

The bill proposed to the Reichstag has for its purpose the protection of the freedom of the "voluntaries." All persons who belong to no organization, who want to live in peace with their employers, who are satisfied with their wages, and have accustomed themselves to live within their wages—all these are to be protected against being compelled by the members of an organization to join in their wage conflicts. The argument in favor of the bill assumes that these "voluntaries" are peaceable, orderly, and especially desirable elements in the state, and that it is an important and urgent task of the sovereign power to protect the identical interests of these classes and the state. It overlooks, however, the fact that these voluntaries consist of very diverse elements. In part they are elderly people with large families, who would prefer to work along quietly on moderate wages rather than to scrimp themselves and their families for a time in the hope of better income. In addition to these there are also people of very doubtful character, loafers and tramps, who seize the opportunity to quickly earn a few

marks and then to disappear ; or agricultural laborers who have just come into town, and who regard the lowest wages paid in town as a tremendous run of luck in comparison with the earnings of agricultural labor. Besides these there are foreign laborers from countries very low in civilization, with limited needs, as, for instance, those from Russian Poland, Galicia, and to a certain extent also from Italy. The immigration from these countries into Germany is just now immense. It is very far from being true that all these are "elements of especial value to the state." Of course, all these ought to be protected against maladministration or insult, just like the other citizens. The general protection of person and of property, the foundation of every civilized state, should be secured to them. But beyond that they deserve no further protection. Other social classes have an abundance of social and economic means of constraint which are highly disagreeable for those upon whom they are exercised, and which cannot be legally forbidden. Such means of constraint must be conceded to the labor organizations also, so that they may attain their ends.

If the "voluntaries" are to be protected against such attempts at constraint by means in excess of general criminal law, every attempt of this sort must necessarily have the character of special legislation, and of assault upon the labor organizations. The "voluntaries" are the lowest strata of the labor element, who are either mentally or industrially too weak to push demands. If they are to be the ones who in the establishment of the conditions of labor are to be consulted in the first instance, these conditions of labor will always remain upon the plane that is most unfavorable to the laborers. Whoever protects and strengthens these elements thereby holds the whole labor population fast upon this lowest plane. He ties the hands of those who attempt in organizations to work themselves up a trifle higher. Hence the "protection of the voluntaries" is the battle-cry of all those who oppose the advancement of the laborers. Whoever, on the contrary, is of the opinion that this advancement of the laborers is for themselves, for the state and nation, for the historical development of mankind in general,

an important and desirable end, will under no circumstances approve "protection of the voluntaries" beyond the proper scope of general criminal law.

We have thus in general expressed our judgment of the bill. It would be very desirable to go farther and by more precise legal and economic criticism of special provisions to justify and elaborate this general judgment. That would, however, far exceed the capacity of the space at our present disposal, and would not perhaps have the same interest for foreigners which it has for us who are in the thick of the fray. It therefore remains merely to explain the spirit of the bill in certain cardinal points, and to confirm what has already been said by a few examples.

Technically the proposed law is offered as an amendment to sec. 153 of the industrial laws of the empire. This section makes it a punishable offense to attempt by means of physical constraint, threats, insults, or ban (*Verrufserklärung*) to induce others to take part in agreements for the purpose of getting better wages and labor conditions, or to prevent others from withdrawing from such agreements. Accordingly, if a laborer does not employ one of these four means, if he merely explains to his working associates the situation, he is not liable, according to the law as it now stands; and if he employs those illegal means, unless he is at the same time guilty of a crime which according to general criminal law is liable to a severer penalty, he can at most only be subjected to three months' imprisonment.

This paragraph itself, however, contains a special law for striking laborers, inasmuch as it punishes more severely crimes which laborers commit during a strike than the same crimes committed by other people. This appears most clearly in the case of the "ban." This is otherwise not punishable. Every union can expel one of its members, and at the same time prohibit the others from further intercourse with him, without any further attention to the matter on the part of others. Every association of traders can agree to deliver no more goods to a given merchant (among the booksellers, for example, there is a ring which maintains itself only by such ban). Every officer who is guilty of conduct unbecoming the honor of his class may

be expelled with infamy from his official rank. In a word, in all classes and strata of society use may be made of the ban as a perfectly permissible weapon in social or economic life. Only when a laborer employs it as a means of assistance in his struggle for wages does it suddenly become a crime that must be punished with imprisonment. Again, threats are not liable to legal penalty in the case of an action permissible in itself. Only threats in instigation of crime are punishable with imprisonment up to six months. In this law, however, all threats employed in a strike for the purpose of inducing another to take part are made punishable. The case is not very different with offenses against honor. This condition of the special law was considerably strengthened by the new statute. In two directions it goes beyond the existing provisions of the law; it proposes first, to raise the limit of penalty, and, second, to extend the area of punishable offenses. Instead of imprisonment up to three months, these offenses in future, according to this law, shall be punishable with imprisonment up to a year, or, if extenuating circumstances are present, with a fine to the limit of a thousand marks. The maximum penalty is accordingly increased fourfold. Of house of correction, to be sure, to which the Kaiser alluded in the speech referred to, there is little said in the law. In only one passage is this word found, as we shall see below. In this respect we might, indeed, in the first moment, be agreeably disappointed, since we read only of imprisonment up to one year. If we, however, reflect what sort of people they are who will be affected by this law, the one year of imprisonment will appear to be an enormous punishment.

One is much more astonished, however, at discovering how extraordinarily the circle of punishable offenses is extended by the proposed law. Hitherto, as we have said, offenses of the kind mentioned are only punishable beyond the provisions of general criminal law in case they are committed for the direct purpose of instigating another to participation in agreements to strike, or in attempts to restrain from breaking such agreements. Even in such cases the extension of the law is with the limitation that the agreement to strike is made "for the purpose of

gaining more favorable conditions of wages and of employment." Accordingly, if a strike is not an aggressive strike, but a defensive one, if the strikers purpose merely to ward off a threatened or already announced cut, it would at least be uncertain whether they would then be liable under this sec. 153 of the industrial laws. Now, however, every agreement that has in view a coöperation to influence the conditions of labor or of wages (sec. 1) is liable to the increased penalty. In the future, therefore, no allowance is to be made for the difference between aggressive and defensive strikes. Moreover, not merely constraint to bring about participation in given actual agreements to strike, but likewise constraint for the purpose of inducing laborers to join organizations, is now placed among criminal actions. Sec. 1 has the express provision, "to participation in organizations or agreements which have in view an influence upon the conditions of labor or wages." This, of course, strikes all industrial organizations of laborers whatsoever, whether they are at the moment engaged in a strike or not. Still further, under the present sec. 153 of the industrial laws only those deeds of violence are included which are committed for the express purpose of forcing another to participation in a strike. According to the new bill, however, every threatening or insulting action which springs from failure to take part in a strike becomes liable to the increased penalties (sec. 6). That is, in case the strike is long past, if the threat or denunciation can no longer have the effect of illegal constraint, even then it may be punished with a year's imprisonment.

Finally we must enumerate in this series of extensions of the number of punishable actions a provision which has attracted more attention than all the rest, namely, the prohibition of strikers' patrols. The idea of threat is extended by this law, beyond its customary and natural sense, to cover the "systematic watching of employers, employés, places of employment, roads, streets, squares, railroad stations, water-ways, harbors, or other places of business." Thus the laborers are made impotent to carry through a strike with success. How can they maintain an oversight of the condition of the strike, of the

number of the voluntaries, the number of shops in which work is going on, and of those in which labor has ceased, etc., if they are not permitted to inform themselves by watching the places of employment? How are they to instruct their comrades who come from a distance, without knowing that in the place in question a strike is in progress, if they are not permitted to meet them at stations and elsewhere and to talk with them? The employer has the right to insert advertisements in papers published at a distance, to send his overseers or other representatives, and to do whatever else seems to him possible to collect laborers from other places; but the laborer is to be deprived of the one means which he now has of winning these new arrivals over to his side. The employers may use the telephone, the mails, social intercourse of every sort, to keep themselves informed about the condition of the strike. The laborer, who has practically none of these quiet and uncontrollable means at his disposal, is to be deprived of the sole means of information which he possesses. In this provision, consequently, the spirit is most evident which has dictated the bill.

It is easily understood, to be sure, that nothing is so disagreeable to the employer as success on the part of the laborers in preventing accessions of labor in case of a strike. Such success compels the employer to treat with them for terms of peace. It is, however, not so easily understood and not so natural—it rather creates the impression of gross partisanship—if the law-giver, who ought to maintain an unprejudiced attitude toward both parties, places himself, with his authority, entirely on the side of the capitalist, and actually forbids the laborer to use the best campaign equipment which he possesses. Already must we accuse most of the police authorities and most of the courts in Germany of having abandoned the non-partisanship which they ought to maintain as representatives of the sovereign power. In the case of the great dock strike in Hamburg in 1896 and 1897 the strikers were forbidden to approach the harbor, while under ordinary circumstances it is open without restriction to everybody. During a strike of masons in Leipzig (summer of 1897) entrance to railroad stations and the promenades of the

city was forbidden to the strikers by a police manifesto. (Our police have, or at least they assume in such matters, competence of which in the free West there can be no conception.) Similar occurrences have taken place elsewhere during minor strikes. In case this was not possible, the strikers' patrols were summarily arrested, and accused of serious disorder (*groben Unfugs*). It should be said that we have in our criminal statutes the beautiful provision (sec. 360, 11) that a fine up to 150 marks, or arrest, shall be the penalty in case one "in an improper way makes a disturbing noise or is guilty of serious disorder." This means, of course, in case anybody at night sings in the streets and breaks windows, puts out street lights, tears down or changes signs, paints statues red, or does anything of like nature that might be suggested by transient folly or youthful recklessness; the sort of thing, in other words, that we have all been more or less guilty of in our student days. There can be no question from the whole connection of the passage, and from the customary use of language, that only such offenses are meant by the words "serious disorder." Now, however, this expression is coming to be interpreted by our courts in a constantly wider sense. One may commit "serious disorder" by an article in the newspaper which rouses somebody's anger; by a speech which somebody interprets as offensive to himself; and also by standing as a sentinel upon the street near a workshop or at a railroad station and thereby becoming an inconvenience to employers. Under this serious-disorder paragraph hundreds of laborers have been punished with arrest in recent years. But this punishment is not sufficient to satisfy the employing classes. Not with arrest, but with house of correction, that is, with the ignominious punishment of the vulgar criminal, should it be punished, if anyone in future in the case of a strike acts as a sentinel or induces another to do so. Yet it is by no means beyond all doubt that actually patrolling as a sentinel can properly be included under the phrase "serious disorder." With very notable frankness the employers' association of Hamburg, one of the most arbitrary capitalistic organizations in the country, declared recently in a public manifesto that it would be better to forbid strikers'

patrols directly, rather than to reach them through a very questionable interpretation as "serious disorder."

In this section about strikers' patrols there is very plain manifestation of what is to be expected when the government and the representatives of the capitalistic party reiterate that the right of combination and the right to strike is not to be curtailed by this bill. So far as technical legal form is concerned, that is correct. In sec. 4, clause 3, this right is expressly recognized as belonging to the laborers and employers. Yet, as a matter of fact, the effective exercise of the right of coalition is made impossible to the laborers. What sense is there in entering upon a movement to affect wages if the persons engaged have no means of permanently controlling and supervising an agitation? The formal legal right to strike is still present; but if this bill should pass it is merely a tantalization instead of something with which the laborers can actually accomplish a purpose.

But this paragraph is far from being the only one which contains destruction of the right of coalition. The general prohibition of the ban has, as a matter of fact, the same effect. A labor organization cannot develop itself if it has not the right to communicate the names of the voluntaries to the affiliated organizations in other places. They must be permitted to make out and circulate lists in which all those are catalogued who at the given time have not obeyed the command of the organization, in order that in the future these people may be known and properly reckoned with from the start. Every person, however, who sends such a list may, according to the new law (sec. 6), be punished with imprisonment up to one year. It makes, however, a very peculiar impression when we read in the justification of the law that so-called black lists, that is, catalogues of all the laborers who have taken part in a strike, are to remain within the rights of the employers in the future. If a manufacturer writes to another, "In my factory today such and such workmen struck; I beg you not to employ these people," that is just as much a ban as if a labor organization transmits a list of the voluntaries. And if an employer locks out a number of people on account of disorderly tendencies, and begs other employers

not to give them work, that is again precisely as much of a ban as if laborers agree not to work for a given employer any longer. The anomaly is that such a ban is now as before to be permitted to the employer, while it is forbidden to the laborer. Herein lies not merely a destruction of the right of coalition, but at the same time a violation of the principle that all citizens shall be equal before the law. The law is thus a special law against striking laborers. It places things under penalty when they are done by striking laborers which remain free from penalty if done by other men.

Furthermore, in sec. 3 of the bill a penalty of imprisonment for not less than three months is provided for anyone who makes it his business to carry on transactions of the before-mentioned sort. The expression "business" (*Geschäft*) is up to date not to be found in our criminal law. The meaning undoubtedly is that no one shall make an occupation of these transactions and obtain an income from them. As the justification and the memorial show, this remarkable paragraph is directed against the officers of labor organizations. It will accordingly hardly be possible for the majority of secretaries of unions or editors of the trade papers to avoid "defamation of character," "ban," or "threats," within the sense of this law, even if they restrain themselves entirely from insults and abuses in the ordinary sense of the word. And if imprisonment for several months threatens them in every case, not many men will be found willing to enter such positions. That is, of course, precisely the intention. Efficient and intelligent men are to be prevented from undertaking the leadership of the labor movement. The employers are to remain in a position to appoint well-trained men, yes as a rule men highly cultivated as economists, to be the managers of their associations. But the corresponding positions in the labor organizations are to be made so dangerous that no one will offer himself for them who can find any other employment. Again, therefore, an effective use of their right of coalition is made impossible to the laborers, for how can they, without expert leadership, even approximately forecast the prospects of a strike? Here again it is manifest that the

new bill violates the legal equality of all citizens, which is, of course, the basis of every civilized state, and it destroys the use of the right of coalition, although that right remains to the laborer in form.

Let this suffice for criticism of the provisions of the law in detail. I fear that what has already been said will seem to foreigners too much of a good thing. Let me briefly mention only one more paragraph, at least, and that is the one which contains the phrase "house of correction," which had been expected since Oeynhausen. In sec. 8, clause 2, of the bill the case is supposed in which, in consequence of a strike, "danger to the security of the realm, or of one of the federal states, has arisen, or a common danger to life or property has been produced." In this case the four crimes which are concerned (bodily constraint, threat, defamation of character, or ban) are made liable to house of correction up to three years; in the case of the promoters, up to five years. It seems at first glance unthinkable that such a condition of things could ever become a reality. It is so far-fetched and so fearfully complicated that it seems ridiculous to draw up a special law for such a case. Surely, the author of this bill would not have given himself this thankless labor—for that he tortured himself a long while before he at last hit upon this form of words is only too evident—if unfortunately the phrase "house of correction" had not dropped from the lips of the Kaiser in Oeynhausen; but this penalty had been suggested, and, for better or for worse, it must at least somewhere appear. Since the paragraph is there, its effect may be immeasurable. Where could there be a strike which some court or other would not interpret as threatening the common right of property? The right of organization of laborers on railroads and in the postal service, in mines, harbors, canals, gas- and water-works, etc., is certainly very seriously threatened.

Up to date it is only the proposal of the law which lies before us in the "House of Correction Scheme." It is, of course, not to be expected that it will become law in precisely its present form. At its first reading in the Reichstag it roused

too much opposition. There is, however, still too much ground to fear that at least a portion of it may become law, for by no means all who oppose this law are opposed to its fundamental idea, namely, increased protection for the voluntaries.

At the first reading of the bill in the Reichstag (end of June, 1899) the number of those who opposed the bill with eloquent speeches was splendid. Not merely the Social Democrats formed the opposition. Nothing else was to be expected from them. Indeed, the point of the law was aimed directly at them. Their fifty-seven votes do not amount to much, however, in a house of 397 members. But in this case there were associated with them the small groups of middle-class liberals, who have in Parliament, to be sure, less significance than in the press, and, further and more important, the two large groups of the Center and of the National Liberals; that is, the party of the Catholics, which alone has over a hundred seats in the Parliament, and the moderate liberal middle party, which consists chiefly of officials, professors, and representatives of large industries. No one had expected so vigorous opposition to the scheme, particularly from this latter party, the National Liberals, as their spokesman, the lawyer Bassermann, a south German, actually manifested. What he said corresponded throughout to the traditions of the time when the National Liberals were actually a liberal party. It appeared, however, very soon that the spokesman of the party was without the support of an important fraction of the party. When it came to vote, a portion broke away from him and voted for reference to a commission—that is, for acceptance of the essential part of the scheme. Moreover, in the press of the great capitalists there arose an angry storm against this apostate. He was charged with accepting the most dangerous demands of the revolutionary movement, with flirting with the Social Democracy, and with destroying the vital energies of German industry. This made a considerable impression upon a part of the National Liberals. It seems to grow plainer that the number of those who will stand fast is growing smaller. The proposal has already appeared in influential National Liberal sheets to exclude Bassermann and his friends from the party. Accordingly, an

equally energetic opposition by the National Liberals is not to be counted on at the second reading.

No more can full confidence be given to the party of the Ultramontanes, the so-called Center. This party has announced for the second reading a series of amendments which are primarily to give legal assurance of the right of organization in general. This is so far in the interest of labor. But the announcement followed that, after the right of organization is perfected, there must be discussion of laws against misuse of this right. This means that this party, which is so strong—indeed, at the present moment the most influential in Parliament—under the given circumstances will throw its influence for a “protection of the voluntaries” in excess of the provisions of general criminal law. Every such preferment of the voluntaries, however, would be a blow to the organized laborers.

Outside of Parliament opinion about the law is also very much divided. The capitalistic press greeted it, of course, with joy. The economic journals, however, and the scholars who published in them, have with one accord disapproved it. The Evangelical Social Congress has not yet had an opportunity to pass upon it. Its session occurred just a week before the appearance of the bill. Judging from the spirit which prevailed there, this body also would doubtless have unanimously disapproved the scheme. At the session of the *Verein für Socialpolitik*, one of the largest organizations of scholars, officials, and certain business-men, the chairman, Professor Schmoller, sometime Rector of the University of Berlin, expressed disapproval in very vigorous terms. Most indefatigable, however, of all the professors in opposition to the scheme had been the Munich economist Brentano. He, indeed, is the first scientific defender of the labor organizations in Germany. For twenty-nine years he has been tireless in the work of convincing scholars and politicians of the usefulness of labor organizations. In this case he was the first to open the discussion. Even before the publication of the law he annihilated the theoretical basis upon which the bill claims to rest, in a pamphlet entitled “The Protection of the Voluntaries.” Subsequently

he elaborated his views in a pamphlet entitled "Reaction or Reform." Last of all he made an address at the convention of the National Socialists, which appeared in all the newspapers and roused the liveliest approval on the one side and equally energetic disapproval on the other. By means of all these utterances he and his colleagues have at least accomplished this one thing, namely, that the majority of the educated, in so far as they are independent of the capitalistic interests, and also a large number of influential employers, are at present among the opponents of the law.

It is, of course, not possible to say at this moment whether anything, and if so how much, of the scheme will be enacted. Before these pages reach the eye of the reader the daily press will have scattered information on this point.¹ At present, however, we may affirm: First, whether this scheme becomes law or not, the introduction of the bill in Parliament has exerted an inexpressibly embittering and exciting influence on the laboring classes. The sin that has thus been committed will not be atoned for by many years of effort. For a long time to come the laborers will have no more confidence in a government which can introduce such a bill and give it the encouragement of its name. The monarchical sentiment, which for a long time has not been especially strong, has suffered a tremendous blow from this law and the speeches which preceded it. It is significant of this state of things that even a man like the well-known Pastor Göhre, who as late as the May number of this journal reported upon the National Socialist party, of which he was a member, has left the party on account of the imperial speech at Oeynhausen, and, as we hear, is about to join the Social Democrats.

Second: On the other hand, this bill has unintentionally had good effect. Among the educated citizens of the middle class the demand for social reform has been manifested during the last summer more strongly than for years before. It grows more

¹[We are indebted to Mr. A. M. Simons, editor of *The Workers' Call*, for accounts from *Vorwärts* of the defeat of the bill and the subsequent passage of a bill legalizing workingmen's coalitions. The suggestion above (p. 453) makes it questionable, in the absence of further details, whether this latter item is wholly to the advantage of the laborers.—ED.]

and more evident that people are growing tired of the prevailing influence of Freiherr von Stumm and his friends. People want more freedom and credit for the development of the laboring class. It is not impossible that even the Kaiser, accommodating himself to this changed sentiment, will gradually come again into the current of the first year of this decade. Many symptoms indicate that the "House of Correction Scheme" is the preliminary or final conclusion of the policy of suppression of the laborers. On the other hand, in opposition to this law the various parties among the laborers have drawn closer to each other. Formerly the Social Democratic, the Catholic, the Evangelical, and the Free-Thinking (the so-called Hirsch-Dunkers) labor organizations fought each other in the most lively fashion. Against this law, however, they have protested shoulder to shoulder. This is also an unexpected result of the "House of Correction Scheme."

In conclusion we must say, as one of the most eminent jurists, Geheimrat Sohm, of Leipzig, expressed it at the National Socialistic party convention in Göttingen, in October: "Whether this scheme or any part of it becomes law or not, right it will never be, for right has its roots in the convictions of the whole community, especially in the conviction of those who are affected by it."

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BERLIN.